

Notice of
Rulemaking Hearing
Tennessee Department of Finance and Administration
Bureau of TennCare

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act Tennessee Code Annotated, Section 4-5-204 and will take place in the Ellington Agricultural Center, Ed Jones Auditorium, 440 Hogan Road, Nashville, TN 37220 at 9:00 a.m. C.S.T. on the 18th day November 2008.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of -TennCare, 310 Great Circle Road, Nashville, Tennessee 37243 or by telephone at (615) 507-6474 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 310 Great Circle Road, Nashville, Tennessee 37243 or call (615) 507-6446.

Substance of Proposed Rules

Paragraph (23) of rule 1200-13-16-.01 is deleted in its entirety and replaced with a new paragraph (23) which shall read as follows:

(23) Home Health Services shall mean those services as defined at 1200-13-13-.01 and 1200-13-14-.01.

Part 3. of subparagraph (d) of paragraph (4) of rule 1200-13-16-.05 Medical Necessity Criteria is amended by deleting the citations "1200-13-13-.04(14)(c) or 1200-13-14-.04(14)(c)" and replacing them with the citations "1200-13-13-.04(7)(f) or 1200-13-14-.04(8)(f)" so as amended part 3. shall read as follows:

3. Private Duty Nursing services are separate services from home health services. When private duty nurses are authorized by the MCC to provide home health aide services pursuant to rule 1200-13-13-.04(7)(f) or 1200-13-14-.04(8)(f), these services must meet the requirements described at part 1. immediately above.

Part 4. of subparagraph (d) of paragraph (4) of rule 1200-13-16-.05 Medical Necessity Criteria is amended by deleting subparts (ix) and (xi) and renumbering remaining subparts accordingly so as amended part 4. shall read as follows:

4. Home health services may not be denied on any of the following grounds:
 - (i) Because such services are medically necessary on a long term basis or are required for the treatment of a chronic condition;
 - (ii) Because such services are deemed to be custodial care;

- (iii) Because the enrollee is not homebound;
- (iv) Because private insurance utilization guidelines, including but not limited to those published by Milliman & Robertson or developed in-house by TennCare managed care contractors, do not authorize such health care as referenced above;
- (v) Because the enrollee does not meet coverage criteria for Medicare or some other health insurance program, other than TennCare;
- (vi) Because the home health care that is needed does not require or involve a skilled nursing service;
- (vii) Because the care that is required involves assistance with activities of daily living;
- (viii) Because the home health service that is needed involves home health aide services; or
- (ix) Because the enrollee meets the criteria for receiving Medicaid nursing facility services.

Statutory Authority: T.C.A. 4-5-202, 4-5-203, 71-5-105, 71-5-109.

The notice of rulemaking set out herein was properly filed in the Department of State on the 8th day of September, 2008. (FS 09-08-08; DBID 911)

